

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING
ROOM 113
THURSDAY, JANUARY 13, 2005
8:30 A.M.**

Commissioners Present: Larry Hudkins, Chair
Deb Schorr, Vice Chair
Bernie Heier
Bob Workman
Ray Stevens

Others Present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Kristy Mundt, Deputy County Attorney
Bruce Medcalf, County Clerk
Trish Owen, Chief Deputy County Clerk
Ann Taylor, County Clerk's Office

The Chair opened the meeting at 8:33 a.m.

AGENDA ITEM

**1 APPROVAL OF THE STAFF MEETING MINUTES OF THURSDAY,
JANUARY 6, 2005**

MOTION: Workman moved and Stevens seconded approval of the Staff Meeting minutes of January 6, 2005. Workman, Schorr and Hudkins voted aye. Stevens abstained from voting. Heier was absent from voting. Motion carried.

2 ADDITIONS TO THE AGENDA

- A. City-County Common Agenda Items
- B. Jamaica North Trail Preliminary Engineering Contract
- C. Omaha Public Power District (OPPD) Transmission Line

Heier arrived at 8:35 a.m.

MOTION: Workman moved and Schorr seconded approval of the additions to the agenda. Schorr, Stevens, Workman, Hudkins and Heier voted aye. Motion carried.

3 LEGISLATIVE UPDATE - Gordon Kissel, Legislative Consultant; Amy Prenda, Director of Legal Research and Analysis for Kissel/E&S Associates

Gordon Kissel, Legislative Consultant, presented a legislative update (Exhibit A).

Amy Prenda, Director of Legal Research and Analysis for Kissel/E&S Associates, reported on a meeting held with union representatives to discuss the proposed state-county-city employee transfer bill. She said the National Association of Government Employees (NAGE)/ American Federation of State, County & Municipal Employees (AFSCME) requested inclusion of language to clarify that employees have the option to remain within the state system and to continue to work under existing contracts.

The Board did not object to the change.

Prenda said she will also run the bill by the State Personnel Department and the State Supreme Court. A late hearing date will be requested to allow everyone sufficient time to review the legislation. If there are still problems, an interim study will be requested.

Tom Fox, Deputy County Attorney, said he has provided Nationwide Retirement Solutions (NRS), the pension provider, a copy of the bill.

Heier asked Kissel to provide a report next week on bills relating to motor vehicle tax and the gas tax.

Legislative testimony will be as follows:

- LB 9 (change county zoning subdivision plats) - Kerry Eagan, Chief Administrative Officer, and Mike DeKalb, Planning Department
- LB 204 (provide a rate of payment for certain medical services and emergency protective custody situations) - Kerry Eagan, Chief Administrative Officer
- LB 261 (eliminate agricultural and horticultural land valuation boards and land manual areas) - Commissioner Hudkins (will testify as an individual)

Eagan noted a proposal to increase the lodging tax by 2.0% and said the Lincoln Chamber of Commerce is drafting a bill that will allow the proceeds to be pledged for the payment of bonds. Lauren Wismer, Bond Counsel, has reviewed the bill and did not see any "red flags".

MOTION: Workman moved and Stevens seconded to; 1) Direct Gordon Kissel, Legislative Consultant, to oppose LB 258 (change provisions relating to legal settlement for public assistance programs); 2) Authorize Kerry Eagan, Chief Administrative Officer, to testify in opposition to the bill; and 3) Send a letter of opposition from the County Board. Schorr, Heier, Stevens, Workman and Hudkins voted aye. Motion carried.

Mike Thurber, Corrections Director, asked whether the Board wants to take a position on LB 41 (change provisions relating to deposits of public funds with credit unions).

The Board suggested that Thurber seek an opinion from the County Treasurer.

MOTION: Heier moved and Schorr seconded to authorize Trish Owen, Chief Deputy County Clerk, to testify on behalf of the County on LB 283 (change property tax equalization timeframes). Schorr, Stevens, Workman, Heier and Hudkins voted aye. Motion carried.

4 LANCASTER MANOR BONDS - Dave Kroeker, Budget and Fiscal Officer; Larry Van Hunnik, Lancaster Manor Administrator

Dave Kroeker, Budget and Fiscal Officer, presented information on Lancaster Manor investments (Exhibit B) and recommended that the liquid funds be invested with Federal Home Loan Bank (FHLB), for a three year period (rate of 4.0%).

Larry Van Hunnik, Lancaster Manor Administrator, concurred with the recommendation.

MOTION: Heier moved and Stevens seconded to proceed, as outlined. Stevens, Workman, Heier, Schorr and Hudkins voted aye. Motion carried.

ADDITIONS TO THE AGENDA

A. City-County Common Agenda Items

The following items were suggested: 1) Keno Prevention Fund Agreement and 2) Noxious Weed Report.

5 ACTIVE COMMUNITY TREATMENT (ACT) PROGRAM - Dean Settle, Community Mental Health Center Director; Topher Hansen, CenterPointe Director; Karen Authier, Lutheran Family Services; Sue Eckley, Workers' Compensation & Risk Management Manager; Tom Champoux, UNICO Group, Inc.; C. J. Johnson, Program Administrator for the Region V Mental Health, Alcoholism & Drug Abuse Program; Mike Thew, Chief Deputy County Attorney

NOTE: Region V will receive \$1.4 million in Phase I of behavioral health services reform funding and the majority will be targeted for Assertive Community Treatment (ACT) (a team treatment approach designed to provide comprehensive, community-based services psychiatric treatment, rehabilitation and support to persons with serious and persistent mental illness). The target population is adults who will be discharged from the State's three regional centers. There are plans to establish an ACT Team in

Lancaster County to serve around 70 persons in Region V (the collaborative organizations are the Mental Health Association, CenterPointe, Inc., Lutheran Family Services and the Community Mental Health Center).

Dean Settle, Community Mental Health Center Director, said there are approximately 400 ACT Teams operating in the United States and said he contacted ACT Teams in the Midwest to see how they are structured and what kinds of risks the governing bodies have seen as a result of involvement (the majority of the programs contacted are publicly operated).

Topher Hansen, CenterPointe Director, said he believes the program will decrease, rather than increase, risk because there will be greater ability to monitor and sustain individuals in the program.

Karen Authier, Lutheran Family Services, emphasized the importance of a public/private partnership.

Settle said the Community Mental Health Center is currently providing case management to 700 individuals and said some of the high need individuals may require this service. The ACT Team will be comprised of 11.5 full-time equivalents (FTE's) and the County has been asked to provide 3.5 of those (a half-time psychiatrist; team leader, case manager and peer worker). He said the ACT Team will be totally funded by the State, on a non-fee-for service basis.

Dave Kroeker, Budget and Fiscal Officer, appeared and expressed concern that funding may move to a unit of service basis in the future and that the County will be forced to pick up the remainder of costs.

Hansen said the ACT Team will cease to exist, if the State withdraws funding.

C. J. Johnson, Program Administrator for the Region V Mental Health, Alcoholism & Drug Abuse Program, said emergency and community support levels of care generally receive high priority in terms of funding.

Mike Thew, Chief Deputy County Attorney; and Sue Eckley, Workers' Compensation & Risk Management Manager; presented ACT Team Risk Management Review Exhibit C):

- Increased exposure to American Disabilities Act (ADA) claims, general civil rights actions and discrimination claims
- Employment practices liability through the hiring of a psychiatrist
- Increase in the workers' compensation and general liability premiums
- Increase in the workload for the County Attorney's Office, Risk Management and insurance broker, in the event that a claim is filed
- Participation will limit ability to market the County's insurance coverage

- Insurance policies currently in force with CenterPointe and Lutheran Family Services should be reviewed, prior to entering into the agreement, for limits and policy provisions
- Potential for claims regarding sexual exploitation
- In-lieu-of-premium tax charged by the Nebraska Workers' Compensation Court will increase because it is based on payroll costs
- Target of lawsuits would be directed at Lancaster County employees (Program Manager and Psychiatrist)

Thew explained that the County has legal authority to participate in the program, but is under no legal obligation to do so. The legal obligation to implement the program lies with Region V. **NOTE:** Region V is the default service provider.

Tom Champoux, UNICO Group, Inc., addressed excess general liability insurance coverage and self-insured retention.

Schorr suggested that the ACT Team get its own insurance.

Thew said the \$5 million cap on damages under the Tort Claims Act would no longer apply.

Schorr asked whether moving the psychiatrist and/or program manager to one of the other partners would alleviate the County Attorney's concerns.

Thew said liability exposure would be substantially reduced if the program director was not a county employee.

Settle said the ACT Team could also contract for psychiatrist.

Schorr asked how other ACT Teams handle the insurance issue.

Settle said the ones that responded to his queries indicated that their insurance carriers did not increase their liability costs as a result of ACT Team involvement.

Additional concerns noted were:

- Impact to the General Assistance (GA) program
- Reimbursement of indirect costs
- Individuals from other counties coming into the program
- Ability to reduce services, or terminate the contract, if State funding is reduced or withdrawn

MOTION: Schorr moved and Stevens seconded to commit the Community Mental Health Center (CMHC) to move forward as a part of the Assertive Community Treatment (ACT) Team and to return with a plan in two weeks to address outstanding issues: 1) Placement of the Program Manager; 2) Insurance; and 3) Clarification that the ACT Team will be serving Lancaster County residents. Stevens, Workman, Schorr, Heier and Hudkins voted aye. Motion carried.

Schorr exited the meeting at 11:25 a.m.

6 POTENTIAL LITIGATION - Mike Thew, Chief Deputy County Attorney; Kristy Mundt, Deputy County Attorney

MOTION: Stevens moved and Workman seconded to enter Executive Session at 11:32 a.m. for discussion of pending and potential litigation. Stevens, Workman, Heier and Hudkins voted aye. Schorr was absent from voting. Motion carried.

Schorr returned to the meeting.

MOTION: Workman moved and Stevens seconded to exit Executive Session at 12:03 p.m. Stevens, Heier, Schorr, Workman and Hudkins voted aye. Motion carried.

7 PAVING REGULATIONS FOR SUBDIVISIONS - Don Thomas, County Engineer; Kristy Mundt, Deputy County Attorney

Don Thomas, County Engineer, addressed issues relating to a proposal to create the Clarendon Hills Road Improvement District and presented recommendations on pavement type, width and thickness for the district (Exhibit D). A plat map indicating which roads should be eight-inch thick and which should be six-inch thick was also distributed (Exhibit E).

Kristy Mundt, Deputy County Attorney, said the County cannot impose an eight-inch thickness because it exceeds the six-inch minimum in the subdivision regulations. She said the County could amend Chapter 5 of the Lancaster County Land Subdivision Regulations to state that the minimum will be specified by the County Engineer and agreed to by the County Board.

Thomas agreed to notify Mike Rierdon, the attorney that represents the property owners that filed the petition for the Clarendon Hills Road Improvement District, of the Board's intent to amend the subdivision regulations.

Heier also suggested amendment of Sec.5.01, Subsection (b) to indicate three (3) acres or less, rather than two (2) acres or less (see Exhibit D).

8 ACTION ITEMS

A. Letter of Support for The Amazing Race Grant Request from Cedars Youth Services

MOTION: Schorr moved and Heier seconded approval, with signature by the Chair. Workman, Stevens, Schorr, Heier and Hudkins voted aye. Motion carried.

B. Certification Report for American Association of Suicidology

MOTION: Stevens moved and Workman seconded to authorize signature by the Chair. Workman, Stevens, Schorr, Heier and Hudkins voted aye. Motion carried.

C. Agenda Items for Joint Lincoln Public Schools (LPS)/City/County Meeting (February 8, 2005)

The Board requested discussion of how the City and Lincoln Public Schools (LPS) plan to time bond issues.

9 ADMINISTRATIVE OFFICER REPORT

A. Mid-Year Budget Retreat Agenda

The Board reviewed a draft of the agenda (Exhibit F).

B. Committee Assignments

The Board made the following changes:

- Lancaster Manor Advisory Committee moved from Hudkins to Heier
- Lincoln Partnership for Economic Development (LPED) Investors moved from Stevens to Hudkins (Stevens will serve as alternate)
- Parks & Recreation Advisory Board moved from Schorr to Stevens
- The Board reduced membership on Lincoln Independent Business Association (LIBA) Budget Monitoring Committee from two commissioners to one (Stevens will serve as the representative and Workman will serve as alternate)

C. Register of Deeds Mortgage Books

Thorpe reported a recommendation that the County dispose of the records, as mandated by the State Records Board, from the committee that was formed to look at the issue. The Secretary of State has indicated that authority to take any action involving the records lies solely with the County Assessor/Register of Deeds, not the County Board.

D. Nebraska Association of County Officials (NACO) County Board Workshop in Kearney, Nebraska (February 9-11, 2005)

Hudkins and Workman indicated plans to attend the workshop.

E. Grandfathered Trade Licenses

Thorpe said Building and Safety has only received one request for a "grandfathered" trade license (Mike Dietze of Waverly Plumbing and Well Company)

MOTION: Workman moved and Heier seconded to allow Building and Safety to issue a "grandfathered" trade license to Mike Dietze of Waverly Plumbing and Well Company. Schorr, Heier, Workman, Stevens and Hudkins voted aye. Motion carried.

F. Transfer of Development Rights

Eagan said Marvin Krout, Planning Director, has agreed to work on development of a change of zone policy that will include a provision for transfer of development rights from other properties.

G. Staff Meeting on February 10, 2005

The meeting was cancelled, due to the lack of a quorum.

H. Signature Stamp for Commissioner Hudkins

MOTION: Stevens moved and Workman seconded to: 1) Request a legal opinion as to whether a signature stamp can be used as a legal signature; and 2) Authorize its use, if there are no objections raised in the legal opinion. Stevens, Workman, Heier, Schorr and Hudkins voted aye. Motion carried.

10 DISCUSSION OF BOARD MEMBER MEETINGS

A. Meeting of the Public Building Commission (PBC) Chair and Mayor - Hudkins

Discussion of the implications of amending Section 5 of the Lancaster County Land Subdivision Regulations was suggested.

B. Public Building Commission - Hudkins, Workman

Hudkins reported on bids for the Lincoln-Lancaster County Health Department project.

C. Board of Health Meeting - Hudkins

Hudkins reported on enforcement of the smoking ban.

ADDITIONS TO THE AGENDA

B. Jamaica North Trail Preliminary Engineering Contract

The Board scheduled the item on the January 18, 2005 Board of Commissioners Meeting agenda.

C. Omaha Public Power District (OPPD) Transmission Line

Schorr said she plans to attend a meeting to discussion the transmission line. It was suggested that the County Engineer or County Surveyor also attend.

11 EMERGENCY ITEMS AND OTHER BUSINESS

Thorpe distributed copies of the Board's calendar (Exhibit G).

12 ADJOURNMENT

MOTION: Schorr moved and Stevens seconded to adjourn the meeting at 12:30 p.m. Stevens, Workman, Heier, Schorr and Hudkins voted aye. Motion carried.

Bruce Medcalf
Lancaster County Clerk